

SOCIAL MEDIA REGULATION ACT

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House Bill 4388 as introduced

Sponsor: Rep. Mark A. Tisdell

1st Committee: Communications and Technology [Discharged]

2nd Committee: Regulatory Reform

Complete to 11-12-25

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4388 would create a new act, the Social Media Regulation Act, to establish age verification and consent requirements for social media accounts of Michigan residents, certain requirements for accounts of minors (under 18), and causes of action for violations of the act. The bill's provisions would take effect beginning 180 days after its effective date.

Age verification and consent

Under the bill, when a Michigan resident applies for an account or profile on a *social media platform*, the social media company would have to verify the applicant's age and, if they are a minor, confirm that their parent or guardian has expressly consented to their having an account. The social media company would have to deny an application if it cannot obtain verification and, if applicable, consent. For existing accounts, the social media company would have to obtain age verification and, if applicable, consent no later than 14 days after the account holder first attempts to access the account (beginning 180 days after the bill takes effect). If the social media company has not obtained verification and, if applicable, consent by the end of that 14-day period, it would have to deny access to the account until it has done so.

Social media platform would mean an online forum with at least 5.0 million account holders worldwide that an interactive computer service¹ makes available for an account holder to create a profile, upload posts, view the posts of other account holders, and interact with account holders or with users (those accessing posts without an account).²

The attorney general could authorize an agent of a social media company, if the agent has a principal place of business in the United States, to process information related to age verification. A social media company or its agent could use information it obtains in complying with the above provisions only for that compliance and for no other purpose.

The attorney general would have to promulgate rules to implement the above provisions, including rules that provide the processes a social media company must use to verify or confirm age, residency, or consent, and requirements for protecting and handling information obtained through those processes. The methods to establish residency could not be limited to a valid identification card issued by a governmental entity.

¹ *Interactive computer service* would be defined to mean an information service, information system, or information access software provider that provides or enables computer access by multiple users to a computer server and provides access to the internet, including at least a web service, web system, website, web application, or web portal.

² The bill excludes several online services from being considered social media platforms, including for example certain services related to email, direct messaging, streaming, shopping, gaming, cloud storage, or teleconferencing. See the bill's definition of *social media platform* for the full list of exclusions and their criteria.

Minor accounts

A social media company would have to ensure that a minor account is not shown in the search results of the social media platform, except when the minor account is linked to other accounts through friending. A social media company would have to prohibit the use in a minor account of targeted or suggested groups, services, products, posts, accounts, or users.

A social media company would have to prohibit access to a minor account from the hours of 10:30 p.m. to 6:30 a.m. However, a parent or guardian who has provided express consent for a minor account would have to be able to modify or eliminate this access restriction, or set a limit on the number of hours a day the minor can use the account, or both.

In addition, a social media company would be prohibited from collecting or using personal information from posts, content, messages, text, or use activities from a minor account. This would not apply to information necessary to comply or verify compliance with any state or federal law.

Parental access

A social media company would have to provide a parent or guardian who has given express consent for a minor account with a password or other means for them to access the account and to see all the minor's posts on the account and all messages sent to or by the minor. The access restrictions described above would not apply to a parent or guardian accessing the minor account under these provisions.

Violations

The bill would allow a consumer to submit a complaint to the attorney general alleging a violation of the new act and require the attorney general to investigate those alleged violations.

If a person violates the act, the attorney general could bring a civil action seeking one or more of the following:

- A civil fine of up to \$2,500 per violation.
- Actual damages.
- Injunctive or declaratory relief.
- Any other relief the court considers appropriate.

However, before bringing a civil action, the attorney general would have to provide the alleged violator with written notice that includes an explanation of the basis for each alleged violation, including the specific provisions alleged to have been violated. The attorney general could not bring a civil action if the person, within 30 days after receiving the notice, cures the noticed violations and provides the attorney general with an express written statement that the violations have been cured and further violations will not occur. The attorney general could bring a civil action if the person fails to cure the noticed violations within 30 days or if they continue to violate the bill in breach of their written statement.

If the attorney general prevails in an action, the attorney general would be entitled to reasonable attorney fees, court costs, and investigative fees.

In addition, if a person violates the new act, a consumer could bring a civil action seeking actual damages or \$2,500 for each violation, whichever is greater.

Contracts

The bill would provide that a provision of a contract entered into, modified, or renewed on or after the bill's effective date is void and unenforceable if it limits a protection or requirement described above, the right to file a consumer complaint as described above, or the right to file a civil action as described above.

Report

The attorney general would have to submit an annual report to the legislature that includes all of the following:

- An evaluation of the liability and enforcement provisions of the new act, including the effectiveness of the attorney general's efforts to enforce the bill and any recommendations for changes to the act.
- A summary of consumer interactions that are protected and not protected by the new act, including a list of alleged violations received by the attorney general from consumers.
- An accounting of all of the civil fines and expenses collected under the act.

FISCAL IMPACT:

House Bill 4388 could result in additional costs to the Department of Attorney General (AG), depending on the number of complaints received by the AG and the extent to which it chooses to investigate alleged violations. The bill would allow, but not require, the AG to investigate complaints and bring civil actions. It is unknown how many violations, complaints, and ensuing legal actions would result from the bill and whether the AG would have sufficient staff and resources to comply with all requirements. Should the AG require any new employee positions, the cost of an additional attorney FTE is approximately \$200,000 annually and an additional support staff FTE position is approximately \$100,000.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.